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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/786,167

02/26/2004

Thomas Herrmann

076326-0273

9137

22428

7590

06/19/2006

FOLEY AND LARDNER LLP
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3000 K STREET NW
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EXAMINER

WILHELM, TIMOTHY

ART UNIT

PAPER NUMBER

3616

DATE MAILED: 06/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/786,167

Applicant(s)

HERRMANN, THOMAS

Examiner

Timothy D. Wilhelm

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3616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 15-23 is/are rejected.
- 7) ☒ Claim(s) 9-14 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*. See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>2/26/2004</u> <u>7/16/04</u> | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Specification

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: claim 12, in which is claimed “an electromagnetic displacement device for the lateral displacement of the driving shaft,” lacks antecedent basis in the specification.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the compressed-air spring and pump device of claims 18 and 19 respectively must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an

application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-3, 18 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Herrmann (DE 101 19 810). Herrmann discloses a height-adjustable, belt-deflecting device 10 for a seat belt 90, the device comprising a deflecting element 30 which deflects the seat belt 90, a tightening device 36 with which the seat belt 90 can be tightened, wherein the deflecting element 30 is connected to the tightening device 36. The tightening device 36 is configured so that it pulls or pushes the deflecting element 30 essentially vertically upwards to tighten the seat belt 90 and has a tightening spring 16, which acts on the deflecting element 30 to tighten the seat belt 90. With regard to claims 18 and 19, the tightening spring 16 of Herrmann is a compressed-air spring

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connected to a pump device 26 with which the compressed-air spring 16 can be placed under pressure.

5. Claims 1-4 and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Kopetzky (6,527,298). Kopetzky discloses a height-adjustable, belt-deflecting device 17 for a seat belt 15, the device 17 comprising a deflecting element 20 which deflects the seat belt 15, a tightening device 25 with which the seat belt 15 can be tightened, wherein the deflecting element 20 is connected to the tightening device 25. The tightening device 25 is configured so that it pushes the deflecting element 20 essentially vertically upwards to tighten the seat belt 15 and has a helical spring 32 that acts on the deflecting element 20 to tighten the seat belt 15. The tightening device 25 has a locking device 27, which locks the tightening spring 32 in the prestressed state.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 5-8,18, and 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kopetzky in view of Biller et al (DE 20209965). Kopetzky discloses the present invention except for the tightening device having an electric motor and of which the deflecting element is connected to a rack. Biller et al teach a belt tightener comprising a driving electric motor with which a compressed-air spring (or helical spring) can be placed under a predetermined prestress and a deflecting element

connected to a rack in which a driving toothed wheel of the driving motor engages to prestress the compressed-air spring. The driving toothed wheel is fastened on a driving shaft. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of the compressed-air spring, rack, and electric motor of Biller et al with the safety belt arrangement of Kopetzky in order to more accurately return the deflecting device to its normal operating position. Examiner acknowledges the phrase "which can be displaced along its driving-shaft axis," in claim 8 as functional language.

8. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kopetzky in view of Autoliv-Kolb (DE 4020600). Kopetzky discloses the present invention except for an electrically controlled locking device. Autoliv-Kolb teaches a seat belt tightening device comprising an electrically controlled locking device 20. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to apply the teaching of Autoliv-Kolb of an electrically controlled locking device to the seat belt tightener of Kopetzky for a more reliable response to a vehicular collision.

Allowable Subject Matter

9. Claims 9-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

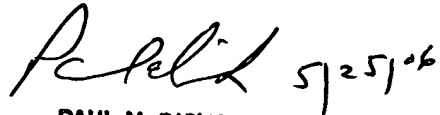
10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Grunewald et al (4,884,825) disclose a safety belt tightening device comprising a helical spring 38 and an electric motor.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy D. Wilhelm whose telephone number is 571-272-6980. The examiner can normally be reached on 9:00 AM to 5:30 PM Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TDW


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